

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2672**

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**Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members V. Manuel Pérez (Chair), Beall, Block, and Hueso)**

March 5, 2012

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An act to amend Sections 7084 and 7118 of the Government Code, and to amend Section 10349 of the Public Contract Code, relating to economic development.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2672, as amended, Committee on Jobs, Economic Development, and the Economy. Procurement omnibus bill.

(1) Existing law requires the state to provide bidding preferences, as specified, to companies meeting specified requirements and making specified declarations related to work within an enterprise zone or a local agency military base recovery area.

This bill would, *commencing January 1, 2013, and every year thereafter*, ~~require each awarding department to submit a report every January 1 to the Department of General Services on the number of businesses that claim enterprise zone preferences and local agency military base recovery area preferences, as specified. The bill would require the Department of General Services to report to the Department of Housing and Community Development on the number of businesses~~

that claim enterprise zone preferences and local agency military base recovery area preferences, as specified.

(2) Existing law requires the Department of Personnel Administration to establish a program for training state agency contracting personnel in contract administration and contract management.

This bill would ~~require the training program to~~ *instead require the Department of Human Resources to implement the training program* and address certain requirements *within that program*, as specified, including, but not limited to, small business preferences, disabled veteran-owned business preferences, local agency military base recovery area preferences, and enterprise zone preferences.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7084 of the Government Code is amended  
2 to read:

3 7084. (a) Whenever the state prepares a solicitation for a  
4 contract for goods in excess of one hundred thousand dollars  
5 (\$100,000), except a contract in which the worksite is fixed by the  
6 provisions of the contract, the state shall award a 5-percent  
7 preference to California-based companies that demonstrate and  
8 certify under penalty of perjury that of the total labor hours required  
9 to manufacture the goods and perform the contract, at least 50  
10 percent of the hours shall be accomplished at an identified worksite  
11 or worksites located in an enterprise zone.

12 (b) In evaluating proposals for contracts for services in excess  
13 of one hundred thousand dollars (\$100,000), except a contract in  
14 which the worksite is fixed by the provisions of the contract, the  
15 state shall award a 5-percent preference on the price submitted by  
16 California-based companies that demonstrate and certify under  
17 penalty of perjury that not less than 90 percent of the labor hours  
18 required to perform the contract shall be accomplished at an  
19 identified worksite or worksites located in an enterprise zone.

20 (c) Where a bidder complies with subdivision (a) or (b), the  
21 state shall award a 1-percent preference for bidders who certify  
22 under penalty of perjury to hire persons living within a targeted  
23 employment area or are enterprise zone eligible employees equal  
24 to 5 to 9 percent of its workforce during the period of contract

1 performance; a 2-percent preference for bidders who shall agree  
2 to hire persons living within a targeted employment area or are  
3 enterprise zone eligible employees equal to 10 to 14 percent of its  
4 workforce during the period of contract performance; a 3-percent  
5 preference for bidders who shall agree to hire persons living within  
6 a targeted employment area or are enterprise zone eligible  
7 employees equal to 15 to 19 percent of its workforce during the  
8 period of contract performance; and a 4-percent preference for  
9 bidders who shall agree to hire persons living within a targeted  
10 employment area or are enterprise zone eligible employees equal  
11 to 20 or more percent of its workforce during the period of contract  
12 performance.

13 (d) The maximum preference a bidder may be awarded pursuant  
14 to this chapter and any other law shall be 15 percent. However, in  
15 no case shall the maximum preference cost under this section  
16 exceed fifty thousand dollars (\$50,000) for any bid, nor shall the  
17 combined cost of preferences granted pursuant to this section and  
18 any other law exceed one hundred thousand dollars (\$100,000).  
19 In those cases where the 15-percent cumulated preference cost  
20 would exceed the one hundred thousand dollar (\$100,000)  
21 maximum preference cost limit, the one hundred thousand dollar  
22 (\$100,000) maximum preference cost limit shall apply.

23 (e) Notwithstanding any other provision of this section, small  
24 business bidders qualified under Section 14838 shall have  
25 precedence over nonsmall business bidders in that the application  
26 of any bidder preference for which nonsmall business bidders may  
27 be eligible, including the preference contained in this section, shall  
28 not result in the denial of the award to a small business bidder.  
29 This subdivision shall apply to those cases where the small business  
30 bidder is the lowest responsible bidder, as well as to those cases  
31 where the small business bidder is eligible for award as the result  
32 of application of the 5-percent small business bidder incentive.

33 (f) All state contracts issued to bidders who are awarded  
34 preferences under this section shall contain conditions to ensure  
35 that the contractor performs the contract at the location specified  
36 and meets any commitment to employ persons with high risk of  
37 unemployment.

38 (g) (1) A business that requests and is given the preference  
39 provided for in subdivision (a) or (b) by reason of having furnished  
40 a false certification, and that by reason of this certification has

1 been awarded a contract to which it would not otherwise have been  
2 entitled, shall be subject to all of the following:

3 (A) Pay to the state any difference between the contract amount  
4 and what the state's cost would have been if the contract had been  
5 properly awarded.

6 (B) In addition to the amount specified in subparagraph (A), be  
7 assessed a penalty in an amount of not more than 10 percent of  
8 the amount of the contract involved.

9 (C) Be ineligible to directly or indirectly transact any business  
10 with the state for a period of not less than six months and not more  
11 than 36 months.

12 (2) Before the imposition of any sanction under this subdivision,  
13 the business shall be entitled to a public hearing and to five days'  
14 notice of the time and place thereof. The notice shall state the  
15 reasons for the hearing.

16 (h) In each instance in this section an enterprise zone shall also  
17 mean any enterprise zone or program area previously authorized  
18 under any other state law.

19 (i) As used in this section, "enterprise zone eligible employees"  
20 means employees who meet any of the requirements of clause (iv)  
21 of subparagraph (A) of paragraph (4) of subdivision (b) of Section  
22 17053.74, or clause (iv) of subparagraph (A) of paragraph (4) of  
23 subdivision (b) of Section 23622.5, of the Revenue and Taxation  
24 Code.

25 ~~(j) Commencing on January 1, 2013, and on January 1 of each~~  
26 ~~year thereafter, each awarding department shall submit a report to~~  
27 ~~the Department of General Services on the number of businesses~~  
28 ~~that claim enterprise zone preferences as identified in this section.~~

29 ~~(k)~~

30 (j) Commencing on January 1, 2013, and on January 1 of each  
31 year thereafter, the Department of General Services shall report  
32 to the Department of Housing and Community Development on  
33 the number of businesses that claim enterprise zone preferences  
34 as identified in this section.

35 SEC. 2. Section 7118 of the Government Code is amended to  
36 read:

37 7118. (a) Whenever the state prepares a solicitation for a  
38 contract for goods in excess of one hundred thousand dollars  
39 (\$100,000), except a contract in which the worksite is fixed by the  
40 provisions of the contract, the state shall award a 5-percent

1 preference to California-based companies who demonstrate and  
2 certify under penalty of perjury that of the total labor hours required  
3 to manufacture the goods and perform the contract, at least 50  
4 percent of the hours shall be accomplished at an identified worksite  
5 or worksites located in a local agency military base recovery area.

6 (b) In evaluating proposals for contracts for services in excess  
7 of one hundred thousand dollars (\$100,000), except a contract in  
8 which the worksite is fixed by the provisions of the contract, the  
9 state shall award a 5-percent preference on the price submitted by  
10 California-based companies who demonstrate and certify under  
11 penalty of perjury that not less than 90 percent of the labor hours  
12 required to perform the contract shall be accomplished at an  
13 identified worksite or worksites located in a local agency military  
14 base recovery area.

15 (c) Where a bidder complies with subdivision (a) or (b), the  
16 state shall award a 1-percent preference for bidders who certify  
17 under penalty of perjury to hire persons living within a local agency  
18 military base recovery area equal to 5 to 9 percent of its workforce  
19 during the period of contract performance; a 2-percent preference  
20 for bidders who shall agree to hire persons living within a local  
21 agency military base recovery area equal to 10 to 14 percent of its  
22 workforce during the period of contract performance; a 3-percent  
23 preference for bidders who shall agree to hire persons living within  
24 a local agency military base recovery area equal to 15 to 19 percent  
25 of its workforce during the period of contract performance; and a  
26 4-percent preference for bidders who shall agree to hire persons  
27 living within a local agency military base recovery area equal to  
28 20 or more percent of its workforce during the period of contract  
29 performance.

30 (d) The maximum preference a bidder may be awarded pursuant  
31 to this chapter and any other law shall be 15 percent. However, in  
32 no case shall the maximum preference cost under this section  
33 exceed fifty thousand dollars (\$50,000) for any bid, nor shall the  
34 combined cost of preferences granted pursuant to this section and  
35 any other law exceed one hundred thousand dollars (\$100,000).  
36 In those cases where the 15-percent cumulated preference cost  
37 would exceed the one hundred thousand dollar (\$100,000)  
38 maximum preference cost limit, the one hundred thousand dollar  
39 (\$100,000) maximum preference cost limit shall apply.

(e) Notwithstanding any other provision of this section, small business bidders qualified under Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this section, shall not result in the denial of the award to a small business bidder. This subdivision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

(f) All state contracts issued to bidders who are awarded preferences under this section shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

(g) (1) A business that requests and is given the preference provided for in subdivision (a) or (b) by reason of having furnished a false certification, and that by reason of this certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:

(A) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.

(B) In addition to the amount specified in subparagraph (A), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(C) Be ineligible to directly or indirectly transact any business with the state for a period of not less than six months and not more than 36 months.

(2) Before the imposition of any sanction under this subdivision, the business shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(h) In each instance in this section, a local agency military base recovery area shall also mean any local agency military base recovery area previously authorized under any other state law.

~~(i) Commencing on January 1, 2013, and on January 1 of each year thereafter, each awarding department shall submit a report to the Department of General Services on the number of businesses~~

1 ~~that claim local agency military base recovery area preferences as~~  
2 ~~identified in this section.~~

3 ~~(j)~~

4 (i) Commencing on January 1, 2013, and on January 1 of each  
5 year thereafter, the Department of General Services shall report  
6 to the Department of Housing and Community Development on  
7 the number of businesses that claim local agency military base  
8 recovery area preferences as identified in this section.

9 SEC. 3. Section 10349 of the Public Contract Code is amended  
10 to read:

11 10349. (a) The Department of ~~Personnel Administration~~  
12 *Human Resources* shall establish a program for training state  
13 agency contracting personnel in contract administration and  
14 contract management. The cost of training state agency contracting  
15 personnel shall be paid by state agencies out of their appropriations  
16 for personnel training. The Department of ~~Personnel Administration~~  
17 *Human Resources* shall, before establishing the training program  
18 required by this section, consult with the department concerning  
19 the training curriculum and the development of a training manual  
20 on contract administration.

21 (b) The training program shall address the requirements in  
22 existing law relating to state contract administration and  
23 management, including, but not limited to, small business  
24 preferences, disabled veteran-owned business preferences, local  
25 agency military base recovery area preferences, and enterprise  
26 zone preferences.